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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,083	04/04/2001	Bruce Royer	57111-5094	3868

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EXAMINER	
SHAAWAT, MUSSA A	
ART UNIT	PAPER NUMBER
3627	
MAIL DATE	DELIVERY MODE
12/16/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/826,083	ROYER ET AL.	
	Examiner	Art Unit	
	MUSSA A. SHAAWAT	3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *9/9/2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-48* is/are pending in the application.

4a) Of the above claim(s) *2-6,9-17,19-23 and 26-48* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 7-8, 18 and 24-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Response to Amendments

1. This action is in response to the amendments filed on 9/29/2008. Claims 1, 7, and 18 have been amended. Claims 2-6, 9-17, 19-23 and 26-48 have been withdrawn from considerations due to non-elected claims. Claims 1, 7-8, 18 and 24-25 are pending examinations.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> **Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.**

Claims 1, 7, 18, 24-25 are rejected under 35 U.S.C. 101. Based on Supreme Court precedent and recent Federal Circuit decisions, a 35 U.S.C § 101 process must (1) be tied to a particular machine or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. In re Bilski et al, 88 USPQ 2d 1385 CAFC (2008); Diamond v. Diehr, 450 U.S. 175, 184 (1981); Parker v. Flook, 437 U.S. 584, 588 n.9 (1978); Gottschalk v. Benson, 409 U.S. 63, 70 (1972); Cochrane v. Deener, 94 U.S. 780,787-88 (1876).

An example of a method claim that would <u>not</u> qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a § 101 statutory process, the claim should positively recite the particular machine to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.

Here, applicant's method steps are not tied to a particular machine and do not perform a transformation. Thus, the claims are non-statutory.

The mere recitation of the machine in the preamble with an absence of a machine in the body of the claim fails to make the claim statutory under 35 USC 101. ***Note the Board of Patent Appeals Informative Opinion Ex parte Langemyer et al.***

http://iplaw.bna.com/iplw/5000/split_display.adp?fedfid=10988734&vname=ippqcases2&wsn=500826000&searchid=6198805&doctypeid=1&type=court&mode=doc&split=0&scm=5000&pg=0

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1, 7, 18, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brandt in view of McCaslin.

Brandt discloses a system and method for accessing rental equipment reservation software applications via the world wide web, including the steps of displaying reservation summary having reservation data (i.e. car preference, origin city, etc.) and vehicle type information (see column 23, lines 64-67); tracking equipment inventory information (see column 23, lines 30-40) including the number of pieces of

rental equipment available for in-town rental and the number of pieces of rental equipment in-town but not available for rental (see at least col.23 lines 30-40, col.32 lines 52-60, col.33 lines 15-35); making confirmation of reservation (see column 28, lines 60-63); updating reservation information (see column 32, lines 47-48); searching equipment inventory (see **paragraph** bridging columns 29-30); displaying customer information and customer history information(see column 31, lines 7-11) ; *wherein the equipment inventory information for each rental location is accessible via the network by all of the other rental locations on the network (see col. 23)*.

However, Brandt appears silent regarding tracking the equipment inventory information for each rental location for managing equipment availability at the plurality of rental locations. McCaslin discloses a system and method whereby equipment and its availability at given service locations (col. 16 line 8), is managed, e.g. equipment is determined unavailable at a service location if its status is marked “ready to ship”. It would be obvious to modify the system in Brandt to include the plural location equipment management feature of McCaslin whereby the availability of equipment at any rental location in Brandt would be known. Notwithstanding, Official notice is taken of the well known use of a equipment manage system used in auto rental locations which manages equipment availability, e.g. car needed in FLA so the system finds a customer going to FLA to deliver the car ***(as evident by Williams Pub. No. (US 2003/0149600A1) paragraph [0008], and also Yamaguchi et al US Pub. No. (US 2002/0087334 A1) paragraph [0008])***, this would be an obvious inclusion into Brandt because it would create a more efficient use of equipment.

Although Brandt teaches displaying a reservation summary having reservation information pertaining to the type of equipment reserved and the date of the reservation, he does not expressly teach displaying information pertaining to a plurality of customer reservations.

The examiner takes official notice that displaying information pertaining to a plurality of customer reservations is well know and old in the art***, as evident by Rose et al. US Patent No. (7,069,228) see claim 2.*** It would have been obvious to one of ordinary skill in the art to modify Brandt to include displaying information pertaining to a plurality of customer reservation in order to know which equipment is available to reserve.

Re claims 7, 24: col. 32 lines 47 et seq. discloses updating a selected car.

Claims 8, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brandt in view of McCaslin and further Craig.

Craig teaches the use of a system alerting the user of upon the detection of an update failure (see paragraph bridging columns 7-8). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Brandt with update alert failures as taught by Craig, because update alert failure notifications allows the user to determine when updates have problems.

Response to arguments

4. Applicant's arguments have been fully considered but are not persuasive. In particular, the applicant's argues: A) Brandt in view of McCaslin fails to teach tracking equipment inventory information including the number of pieces of rental equipment

available for in-town rental and the number of pieces of rental equipment in-town but not available for rental and wherein the rental equipment inventory information for each rental location is accessible via the network by all of the other rental locations on the network; B) applicant traverses the use of Official Notice.

In response to A) examiner respectfully disagrees. Applicant is reminded that claims must be given their broadest reasonable interpretation. Brandt teaches tracking equipment inventory information including the number of pieces of rental equipment available for in-town rental and the number of pieces of rental equipment in-town but not available for rental ((see at least col.23 lines 30-40, col.32 lines 52-60, col.33 lines 15-35)). In addition Brandt teaches wherein the equipment inventory information for each rental location is accessible via the network by all of the other rental locations on the network (see at least col. 23). Therefore Brandt in view of McCaslin still meet the scope of the limitation as currently claimed.

In response to B) regarding the Official Notice fact taken by the examiner on the office action dated 07/10/2007, the applicant failed to specifically point out the supposed errors in the examiner's action, and to state why the notice fact is not considered to be common knowledge or well known in the art, therefore In view of the inadequate traversal, and in light of the requirements of 2144.03(c), ***the examiner notes that the well known in the art statements of the previous Office Action are considered to be admitted prior art***. Furthermore **the Official Notice Traversal is no longer seasonable, therefore the Official Notice is considered to be admitted prior art.**

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MUSSA A. SHAAWAT whose telephone number is (571)272-2945. The examiner can normally be reached on Mon-Fri (8am-5:30pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Florian Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mussa Shaawat
Patent Examiner
December 11, 2008

/F. Ryan Zeender/

Supervisory Patent Examiner, Art Unit 3627